

**Cheltenham Borough Council**  
**Cabinet – 11<sup>th</sup> July 2017**  
**Community Infrastructure Levy**

<b>Relevant portfolio holder</b>	<b>Cllr Steve Jordan - Leader of the Council</b>
<b>Accountable officer</b>	<b>Tracey Crews - Director of Planning</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>The overall purpose of the Community Infrastructure Levy (CIL) is “to ensure that costs incurred in supporting the development of an area can be funded (wholly or partly) by owners or developers of land in a way that does not make development of the area economically unviable” (Section 205, Planning Act 2008). CIL enables the local planning authority to charge a tariff on most new development of land in its area. This goes into a locally-held fund it administers and is to be applied to supporting development by funding the provisions, improvement, replacement, operation or maintenance of infrastructure , with receipts which are under the legislation which is to be passed to others also able to be applied to anything that is concerned with addressing demands that development places on an area.</p> <p>A local planning authority which proposes to charge CIL must issue a Charging Schedule that is subject to formal public consultation and examination. The Charging Schedule sets out the amount to be levied from various types of development.</p> <p>On the 4<sup>th</sup> of April 2016 Council agreed the publication of the Draft Charging Schedule for public consultation and ‘following the conclusion of the publication period, directed the responses received be compiled and submitted with the Draft Charging Schedule to the Planning Inspectorate for Examination’. The Community Infrastructure Levy Draft Charging Schedule was submitted to the Planning Inspectorate in July 2016. Following changes to Strategic Allocations within the Joint Core Strategy, revisions are now required to the Draft Charging Schedule through the publication of a Proposed Statement of Modifications. This report seeks Cabinet approval to undertake public consultation on the Proposed Statement of Modifications and approval to compile and submit responses received to the CIL Examiner for examination. Tewkesbury Borough and Gloucester City Councils will also be consulting on their Statements of Proposed Modifications.</p>

## Recommendations

- 1) The Community Infrastructure Levy Proposed Statement of Modifications at Appendix 2 be **APPROVED** for public consultation.
- 2) Delegate authority to the Director of Planning, in consultation with the Leader to amend the Proposed Statement of Modifications at Appendix 2 and prepare any further statements of modification that may be required following the JCS hearings and/or any further viability assessments undertaken.
- 3) The Director of Planning be authorised to agree the date of public consultation(s) with Gloucester City and Tewkesbury Borough Councils.
- 4) The Director of Planning, following the conclusion of the public consultation(s), be authorised to compile and submit responses received to the CIL Examiner for examination.

## Financial implications

The cost of implementing CIL going forward has been estimated at £180,000, to be shared equally between the three Joint Core Strategy (JCS) authorities. Each council's contribution will cover the following requirements:

- Staffing costs - £30,000
- IT system costs - £30,000

The CIL Regulations provide for Charging Authorities to recover their administrative costs from CIL income, up to a total of 5%. This includes set up costs, fees involved in setting the charge and any training, defrayed against the first 3 years. The anticipated CIL income over the first three years between the JCS authorities is estimated to be in the region of £13 million.

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<b>Legal implications</b>	<p>The formal procedure for the setting and adoption of CIL charges is set out in Part 11 of the Planning Act 2008 and the Community Infrastructure Regulations 2010 (the requirements of which, so far as they relate to the drafting of the charging schedule, are known collectively as “the drafting requirements”). Under the drafting requirements, a Charging Authority (the local planning authority) which proposes to charge CIL must, after having prepared and consulted upon a Preliminary Draft Schedule, prepare a Draft Charging Schedule (DCS) and then formally publish the DCS together with the appropriate available evidence on infrastructure costs, other funding sources and economic viability for consultation for a minimum period of four weeks. After the close of the consultation process, the Charging Authority must then submit the DCS for public examination before an independent person.</p> <p>There is a “Statement of Modifications” process available in respect of amending a DCS prior to submission to examination and the process is also utilised in respect of proposed modifications to a DCS subsequent to submission. The statement of modifications must be sent to each of the consultation bodies that were invited to make representations on the Preliminary Draft Charging Schedule and must be published on the local planning authority’s website. Substantive changes should be avoided, unless they have been sufficiently consulted upon; with Charging Authority’s taking steps they consider necessary to inform people who were invited to make representations on the DCS that the statement of modifications has been published.</p> <p>Anyone who makes representations about a DCS must, if that person so requests at the time of making a representation on the DCS, be heard by the examiner. Similarly, a period of four weeks is to be available for any person to make representations and requests to be heard on any published modifications. The examination will consider whether the drafting requirements have been complied with, including whether there has been due regard to the actual and expected costs of infrastructure, economic viability of development and other actual and expected sources of funding for infrastructure.</p> <p><b>Contact officer: Cheryl Lester, <a href="mailto:Cheryl.Lester@tewkesbury.gov.uk">Cheryl.Lester@tewkesbury.gov.uk</a>, 01684 272032</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>There will be a requirement for additional staffing resource to support the CIL charging structure and the costs for the additional resource are set out in the finance section above</p> <p><b>Contact officer: Julie McCarthy, <a href="mailto:julie.mccarthy@cheltenham.gov.uk">julie.mccarthy@cheltenham.gov.uk</a>, 01242 264355</b></p>

<b>Key risks</b>	<p>Failure to develop a CIL Charging Schedule would reduce the Council's ability to ensure that new development contributes proportionately to infrastructure provision in the longer term. The Council will also continue to utilise Section 106 agreements to secure appropriate infrastructure contributions.</p> <p>Failure to adopt a CIL in the longer term means that the Council could be disadvantaged by the changes to Section 106 which took effect on 6 April 2015, which limit the pooling of contributions for the infrastructure needed to support new development, and could result in a significant loss of contributions towards infrastructure until such time as a CIL is adopted.</p>
<b>Corporate and community plan Implications</b>	By delivering infrastructure needed to support new development and mitigate against the impact of new development, CIL would contribute to supporting the objectives of the corporate plan.
<b>Environmental and climate change implications</b>	<p>Poor-quality infrastructure – owing to underfunding or resource constraints - will not assist in mitigating the effects of climate change and may exacerbate existing problems. For example, underprovision of transport infrastructure may increase congestion and exhaust emissions. The development of the CIL would take into account the three dimensions of sustainable development set out in the National Planning Policy Framework (NPPF):</p> <ul style="list-style-type: none"> <li>• An economic role – contributing to building a strong, responsive and competitive economy.</li> <li>• A social role – supporting strong, vibrant and healthy communities.</li> <li>• An environmental role – contributing to protecting and enhancing our natural, built and historic environment.</li> </ul>
<b>Property/Asset Implications</b>	<p>No direct implications – but property colleagues will need to be aware of the potential introduction of the Community Infrastructure Levy described in this report.</p> <p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p>

## **1.0 Background**

1.1 The Joint Core Strategy (JCS) authorities (Tewkesbury, Cheltenham and Gloucester) have been working towards adopting a Community Infrastructure Levy (CIL) alongside the JCS. CIL will allow the Councils to raise funds from developers undertaking new developments to fund a wide range of infrastructure that is needed to support new development such as road improvements and schools. As almost all development has some impact on the need for infrastructure, services and amenities CIL is a more effective, quicker and fairer system to fund new infrastructure. CIL will replace the majority of Section 106 Planning Obligations; however, S106 will still be used to deliver affordable housing provision and site-specific mitigation measures. For Strategic Allocations, the majority of required infrastructure will still be funded through the S106 Planning Obligations process.

1.2 The proposed CIL rates for the JCS area are set out within the Draft Charging Schedule which was submitted to the Planning Inspectorate for Examination on 29 July 2016. The CIL submission documents can be found at: <http://www.gct-jcs.org/CIL/CIL.aspx>

An independent Planning Inspector has been appointed to preside over the Examination into the CIL Charging Schedule; this is the same Inspector who is dealing with the Joint Core Strategy (JCS). The CIL Hearings will take place sometime after the conclusion of the JCS Hearings.

## **2.0 Amendments Required Following the JCS Hearings**

2.1 Following the hearings on the JCS in 2016, the Planning Inspector published an Interim Report. This report set out that in order for the JCS to be found sound further work was required and a number of recommendations were made. This included:

- Increasing the level of housing provision from 30,500 to 35,175; and
- The deletion of the North Churchdown and Leckhampton strategic allocations from the plan.

In October 2016, it was confirmed that the majority of MOD Ashchurch would no longer be available for development for at least the next ten years.

2.2 With the removal of the three sites as strategic allocations and the increase in the required housing provision the following sites have been added as strategic allocations within the Proposed Main Modifications JCS. These are:

- West Cheltenham
- Twigworth
- Winnycroft

2.3 The JCS authorities have commissioned Peter Brett Associates (PBA) to complete a viability study on these additional sites in consultation with developers and these (save in respect of Winnycroft, which is currently in hand) are available on the JCS website. Appendix 2 indicates the potential CIL rate applied to all Strategic Allocations and anticipated affordable housing provision based on JCS requirements.

### **3.0 Proposed Modifications to the Draft Charging Schedules**

3.1 Given the changes to the JCS strategic allocations, the Draft Charging Schedules for each JCS Authority require amending before an Examination can take place. The JCS authorities have received legal advice setting out that the most appropriate way forward is to produce a 'Statement of Modifications' to each Draft Charging Schedule before the examination and to consult on these statements for a period of four weeks. The statement contained within Appendix 2, sets out the following modifications:

- The addition/deletion of strategic allocations as recommended by the JCS Inspector.
- The inclusion of maps showing the boundaries of Strategic Allocations (as required by the CIL Regulations).
- A section setting out how the CIL charge will be calculated (as required by the CIL Regulations).

#### **4.1. Reasons for recommendations**

4.1 Officers consider that the case for consulting on the revised CIL Charging Schedule is persuasive and that the modifications are necessary to allow the next stages of the process to commence. If the CIL charging schedule were to go to the CIL examiner unmodified it would not reflect the current state of the JCS and consultees would not have been able to have their say on the latest version of the schedule and the sites within it.

### **5. Alternative options considered**

5.1 At the early stages of considering CIL, an option not to implement CIL and continue to rely only on negotiations of S106 was investigated. However, the restrictions put in place which limit the ability to pool receipts from S106 would be likely to result in the loss of resources to fund identified infrastructure needs. The use of CIL would address this loss of resources towards the funding gap for future infrastructure.

### **6. Consultation and feedback**

6.1 Once the three councils have each approved the Statement of Modifications for their respective Draft Charging Schedules the proposed timetable is as follows:-

- Consultation for four weeks commencing – late July/early August 2017
- Examination – anticipated October 2017
- Adoption – January 2018.

### **7. Performance management –monitoring and review**

7.1 Following the 4 week publication period, any representation and requests to be heard in respect of the proposed modifications will be passed to the CIL Examiner for examination.

7.2 Once in place, CIL will be required to be closely monitored and the Charging Schedule kept under review, ensuring that levy charges remain appropriate over time..

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<b>Appendices</b>	1. Risk Assessment  2. CIL Proposed Modifications and Maps 1 -3	
<b>Background information</b>	<p>The submitted Community Infrastructure Levy Documents (2016) can be found at: <a href="http://www.gct-jcs.org/CIL/CIL.aspx">http://www.gct-jcs.org/CIL/CIL.aspx</a></p> <p>The Draft Charging Schedule was agreed by Council on the 4<sup>th</sup> of April 2016. Decisions and minutes of this meeting can be found here: <a href="https://democracy.cheltenham.gov.uk/mgAi.aspx?ID=10356">https://democracy.cheltenham.gov.uk/mgAi.aspx?ID=10356</a></p>	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	A robust system needs to be put in place for the day to day administration of CIL. There are legal and financial responsibilities which need to be administered. Failure to put in place a system will mean that the Council will not be able to effectively collect CIL receipts and fulfil its responsibilities as a Charging Authority.	Tracey Crews	16/3/16	5	2	10	Reduce	Investigate options for governance and billing of CIL.	8/10/17	Tracey Crews	On Divisional Risk Register
<b>Explanatory notes</b> <b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical) <b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability) <b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close											